



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

File

Norman H. Bangerter

Governor

Dee C. Hansen

Executive Director

Dianne R. Nielson, Ph.D.

Division Director

355 West North Temple

3 Triad Center, Suite 350

Salt Lake City, Utah 84180-1203

801-538-5340

March 27, 1991

CERTIFIED RETURN RECEIPT

P 074 979 050

Mr. Roger Myers
Genwal Coal Company
P.O. Box 1201
Huntington, Utah 84528

Dear Mr. Myers:

Re: Proposed Assessment for State Violation No. N91-37-2-1,
Crandall Canyon Mine, ACT/015/032, Folder #5, Emery County,
Utah

The undersigned has been appointed by the Board of Oil, Gas and Mining as the Assessment Officer for assessing penalties under R614-401.

Enclosed is the proposed civil penalty assessment for the above referenced violation. This violation was issued by Division Inspector, Priscilla Burton on March 15, 1991. Rule R614-401 has been utilized to formulate the proposed penalty. By these rules, any written information which was submitted by you or your agent within fifteen (15) days of receipt of this Notice of Violation has been considered in determining the facts surrounding the violation and the amount of penalty.

Within 15 days after receipt of this proposed assessment, you or your agent may file a written request for an assessment conference to review the proposed penalty.

If a timely request is not made, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the proposed assessment. Please remit payment to the Division, mail c/o Vicki Bailey.

Sincerely,

Joseph C. Helfrich
Assessment Officer

jbe
Enclosure

**WORKSHEET FOR ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING**

COMPANY/MINE Genwal Coal Company/Crandall Canyon Mine NOV #N91-37-2-1

PERMIT # ACT/015/032

VIOLATION 1 OF 1

ASSESSMENT DATE 03/26/91 ASSESSMENT OFFICER Joseph C. Helfrich

I. HISTORY MAX 25 PTS

- A. Are there previous violations which are not pending or vacated, which fall within 1 year of today's date?

ASSESSMENT DATE 03/26/91 EFFECTIVE ONE YEAR TO DATE 03/26/90

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>N90-18-1-1</u>	<u>12/27/90</u>	<u>1</u>
<u>N90-17-3-2 1/2</u>	<u>12/27/90</u>	<u>1</u>
<u>N90-17-3-2 2/2</u>	<u>12/27/90</u>	<u>1</u>
<u>N90-17-4-2 1/2</u>	<u>12/27/90</u>	<u>1</u>
<u>N90-17-4-2 2/2</u>	<u>12/27/90</u>	<u>1</u>
<u>N90-17-5-2 1/2</u>	<u>12/27/90</u>	<u>1</u>
<u>N90-17-5-2 2/2</u>	<u>12/27/90</u>	<u>1</u>

1 point for each past violation, up to one year;
5 points for each past violation in a CO, up to one year;
No pending notices shall be counted.

TOTAL HISTORY POINTS 7

II. SERIOUSNESS (either A or B)

NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? Hindrance

A. Event Violations Max 45 PTS

1. What is the event which the violated standard was designed to prevent?
-

2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? _____

... PROBABILITY	RANGE
... None	0
... Unlikely	1-9
... Likely	10-19
... Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS _____

PROVIDE AN EXPLANATION OF POINTS

3. What is the extent of actual or potential damage?

RANGE 0 - 25*

*In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS _____

PROVIDE AN EXPLANATION OF POINTS

B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement? Potential
RANGE 0 - 25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS 5

PROVIDE AN EXPLANATION OF POINTS

The inspector's statement revealed that the air quality permit on file, had Genwal Coal Co. for the Crandall Canyon Mine, was outdated.

TOTAL SERIOUSNESS POINTS (A or B) 5

III. NEGLIGENCE MAX 30 PTS

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO - NO NEGLIGENCE;
 OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO - NEGLIGENCE;
 OR Was this violation the result of reckless, knowing, or intentional conduct? IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.

... No Negligence	0
... Negligence	1-15
... Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Ordinary

ASSIGN NEGLIGENCE POINTS 12

PROVIDE AN EXPLANATION OF POINTS

Lack of diligence with respect to DOGM requirements and permit conditions. The inspector's statement revealed that the operator was aware of the requirement to provide inspectors with information regarding the air quality permit. An air quality permit was provided, however, was quite outdated. The permit was dated 1985 with a max tonage of 360 thousand tons. Elsewhere, in the volumes provided to the inspector, was a letter addressed to the Manti-LaSal Forest Supervisor that indicated Genwal's production was 573,876 tons of coal in 1990, but it was copied to the BLM and not to the State Health Department. State Health had a figure of 352 thousand tons of coal for 1990 as of August of that year. State Health advised DOGM that a modification had been issued to the 1985 permit. This modification, dated June 15, 1988, allowed a crusher with a capacity for 499 thousand tons. The modification was not available on site. Finally, Genwal, in need of processing facility expansion, has submitted a proposal to the Division but not communicated correspondingly with State Health. State Health is aware of their intentions only through DOGM communications.

IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring no abatement measures.)

- A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area?
 ... IF SO - EASY ABATEMENT

Easy Abatement Situation

- ... Immediate Compliance -11 to -20*
- ... Immediately following the issuance of the NOV)
- ... Rapid Compliance -1 to -10*
- ... (Permittee used diligence to abate the violation)
- ... Normal Compliance 0
- (Operator complied within the abatement period required)
- (Operator complied with conditions and/or terms of approved Mining and Reclamation Plan)

* Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance?

... IF SO - DIFFICULT ABATEMENT

Difficult Abatement Situation

- ... Rapid Compliance -11 to -20*
- ... (Permittee used diligence to abate the violation)
- ... Normal Compliance -1 to -10*
- ... (Operator complied within the abatement period required)
- ... Extended Compliance 0
- (Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)
- (Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? _____ ASSIGN GOOD FAITH POINTS -0

PROVIDE AN EXPLANATION OF POINTS

To be evaluated upon termination of the violation. To be considered for good faith points, the permittee is encouraged to submit information to the assessment officer, as soon as possible, reflecting diligence in accomplishing the abatement requirements of this violation.

V. ASSESSMENT SUMMARY FOR N91-37-2-1

I.	TOTAL HISTORY POINTS	<u>7</u>
II.	TOTAL SERIOUSNESS POINTS	<u>5</u>
III.	TOTAL NEGLIGENCE POINTS	<u>12</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-0</u>
	TOTAL ASSESSED POINTS	<u>24</u>
	TOTAL ASSESSED FINE	<u>\$ 280.00</u>

jbe